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CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper, together with all enclosures identified herein, are being deposited with the United States Postal Service as first class mail, addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on or before March 9, 2009.

3.9.09  
Date

William L. King III  
William L. King III

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Tonar et al.  
Examiner : Alicia Toscano  
Serial No. : 10/085,434  
Group Art Unit : 1796  
Confirmation No. : 4510  
Filed : February 28, 2002  
Attorney Docket No. : GEN-001323 C3  
Title : ELECTROCHROMIC LAYER AND DEVICES  
COMPRISING SAME

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Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO ACCEPT AN UNINTENTIONALLY  
DELAYED BENEFIT CLAIM UNDER 35 U.S.C. §119/120

Dear Sir:

This communication is in response to the Office Action mailed September 8, 2008, directed to the above-identified application, which indicated that Applicant must file a petition with the appropriate fees to correct the priority claim under 35 U.S.C. §119/120.

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EXHIBIT A

AMENDMENTS TO THE SPECIFICATION

Please insert the following paragraph after the Title of the Invention:

This application is a continuation of Application No. 09/883,650, filed June 18, 2001, which is a continuation of Application No. 09/361,923, filed July 27, 1999, now U.S. Patent No. 6,248,263, which is a continuation of Application No. 08/616,967, filed March 15, 1996, now U.S. Patent No. 5,928,572.

REMARKS

Applicant respectfully submits that the Office Action mailed September 8, 2008, indicates that Applicant's priority claim was improper, and that correction was required via petition and payment of the appropriate fees set forth in 37 C.F.R. §1.17(t).

In full accordance with MPEP §201.11, Applicant hereby respectfully petitions for the benefit claim under 35 U.S.C. §119/120 provided herein. In particular, Applicant submits that the present petition is accompanied by the reference required under 35 U.S.C. §119/120 and 37 C.F.R. §1.78(a)(2) or (a)(5). Applicant further submits that any appropriate surcharges under 37 C.F.R. §1.17(t) may be paid out of Deposit Account No. 50-2131. Applicant also respectfully submits that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. In particular, reference is made to the Office Action mailed September 8, 2008, wherein Applicant was informed that its amendment to clarify the priority dated June 19, 2008, was improper.

Applicant submits that, to the best of its knowledge, all necessary steps have now been taken to properly correct the priority claim of the present application, and favorable consideration is respectfully solicited.

In light of the foregoing, Applicant respectfully requests that the present petition to accept the unintentionally delayed benefit claim under 35 U.S.C. §119/120 be granted.

Should anything further be required, or if the Petitions Attorney has any remaining questions or concerns relative to the present petition, a telephone call to the undersigned at (616) 355-0400 is respectfully requested in order to proceed with prosecution of the present application.

If any other charges or fees must be paid or credited in connection with this

communication, they may be paid out of our Deposit Account No. 50-2131.

Respectfully submitted,

KING & PARTNERS, PLC

Dated: 3.9.09

William L. King III

William L. King III

Reg. No. 46,830

KING & PARTNERS, PLC  
170 College Avenue, Suite 230  
Holland, Michigan 49423  
T: (616) 355-0400  
F: (616) 355-9862



Law Offices  
King & Partners, PLC  
170 College Avenue, Suite 230  
Holland, Michigan 49423

March 9, 2009

The Commissioner for Patents mailroom stamp hereon acknowledges receipt of the following:

Petition to Accept an Unintentionally Delayed Benefit  
Claim Under 35 U.S.C. §119/120; and  
Certificate of Mailing.

Applicant: Tonar et al.  
Serial Number: 10/085,434  
Filing Date: February 28, 2002  
For: ELECTROCHROMIC LAYER AND DEVICES COMPRISING SAME

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